(58)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench :- Hon'ble Shri Justice Satish K. Agnihotri

WRIT PETITION (C) NO. 2072/2007

Petitioner/ Plaintiff

Sampatram, S/o. Ghanaram, Aged 47 years, (approximately) R/o. Village Bhurkhabhat, P.s. Deori, Tehsil-Doundilohara, District Durg (C.G.)

Versus

Respondents/ Defendants

1. Registrar, (Birth-Death) and Thana Incharge, Deori, District-Durg (C.G.)

2. District Planning and Statistics Officer, and District Registrar (Birth-Death), Durg (C.G.)

3. Milauram, Aged 12 Years (approximately) Through his guardian Ganeshram S/o. Shatrughan Aged 35 years, Caste-Halba, R/o. Village-Khaira, P.O. Malighori, Tehsil-Balod, District-Durg (C.G.)

   Present Adress :- Village-Bhurkhabhat, P.O.n Suregaon, Tehsil Doundilohara, District-Durg (C.G.)

4. Maniklal, S/o. Shri Varandas, Caste-Devdas, Presently (Village Kotwar) Aged 52 years, R/o. Village-Bhurkhabhat, Tehsil-Doundilohara, Police Chowki-Suregaon, Thana-Deori, District-Durg (C.G.)

5. State of Chhattisgarh, Through Collector, Durg (C.G.)

Present :- Smt. Fouzia Mirza, counsel for the petitioner.
Ku. Deepali, Pandey, Panel Lawyer for the State.

ORDER
(Passed on 4th April, 2007)

By this petition under Article 227 of the Constitution of India, the petitioner challenges the legality and validity of the order dated 18.01.2007(Annexure P-7) passed by the Second Civil Judge Class-II, Balod, in Civil suit No. 18-A/2006.

2) The facts in nutshell are that the petitioner filed an application under Section 151 of the Code of Civil Procedure (*for short " the Code"*) dated 23.11.2006 in the pending civil suit No.19-A/2006 for a direction to initiate appropriate action against the Government Officer or Government Advocate for filing false affidavit in the Court.

3) The respondent No.1 filed his reply denying all the allegations made by the petitioner stating that the petition seeking initiation of action against the respondent be dismissed. Learned Civil Judge after having considered the averments made in the application as well as in the reply and having considered the submissions of the learned counsel for the parties held as under :

> "इस प्रकरण में Notice to admit document जो अनुविभागीय दण्डाधिकारी डोन्डी लोहारा के दा. प्रकरण क्र. 110/94 इस्तगासा क्र. 17/53 का विवरण था उसे प्रतिवादी क्र. 1 ने अस्वीकार किया इस दस्तावेज को प्रमाणित करने का भार उस व्यक्ति पर होता है जो उसे अवलंब करता है वादी को इस इस्तगासा को प्रमाणित करने का भार है। प्रतिवादी क्र.1 को किसी दस्तावेज को स्वीकार या अस्वीकार करने के लिये बाध्य नही किया जा सकता। प्रकरण में ऐसी कोई स्थिति नहीं है कि शासकीय अधि. द्वारा किये गये किसी कथन पर न्याय प्रक्रिया में बाधा पहुंची हो अतः वादी के आवेदन के माध्यम से प्रतिवादी क्र.1 या शासकीय अधिवक्ता पर कोई कार्यवाही का आधार न होने से यह आवेदन सारहीन होने के कारण 200/– (दो सौ रु.) के परिव्यय पर निरस्त किया जाता है।"

4) I have heard learned counsel for the petitioner and gone through the petition and documents appended thereto.

5) Having regard to the facts and circumstances of the case, the order passed by the Second Civil Judge class II is perfectly valid, just and proper. In a case, where such application is made for taking action against a party or the Government Advocate, the Civil Court has full jurisdiction to reject the application on merit with costs. I have not found any infirmity, illegality or jurisdictional error in the impugned order.

6) Thus, this petition is dismissed in exercise of supervisory jurisdiction of this Court as having no merit. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Gowri